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IN THE
Supreme Court of the United States

OCTOBER TERM, 1961

No. 242

THE GLIDDEN COMPANY, DURKEE FAMOUS FOODS
DIVISION, a Foreign Corporation, *Petitioner*,
against

OLGA ZDANOK, JOHN ZACHARCZYK, MARY A. HACKETT,
QUITMAN WILLIAMS and MARCELLE KRIEISCHER,
Respondents

On Writ of Certiorari to the United States Court of Appeals
for the Second Circuit

MOTION OF CHAMBER OF COMMERCE OF THE UNITED
STATES FOR LEAVE TO FILE BRIEF AS AMICUS
CURIAE AND BRIEF OF AMICUS CURIAE

WILLIAM B. BARTON,
General Counsel
Chamber of Commerce
of the United States
1615 H. Street, N. W.
Washington, D. C.

GEORGE J. PANTOS
Attorney
Chamber of Commerce
of the United States
Washington, D. C.

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**MOTION OF CHAMBER OF COMMERCE OF THE
UNITED STATES FOR LEAVE TO FILE BRIEF
AS AMICUS CURIAE**

The Chamber of the United States respectfully
moves this Court for leave to file the accompanying
brief in this case as *amicus curiae*.

The consent of the attorney for the petitioner herein
has been obtained, but the attorney for respondents
herein refused to consent to the filing of a brief by the
Chamber of Commerce of the United States as *amicus
curiae*.

The Chamber of Commerce of the United States is
a non-profit corporation organized and existing by

virtue of the laws of the District of Columbia and consisting of membership of more than 3,000 national, state, and local chambers of commerce and trade associations, with an underlying membership of more than 21,550 business firms.

The applicant has an interest in this case in that many of its members are engaged in businesses whose activities affect interstate commerce and are, therefore, subject to federal laws that affect the employer-employee relationship in these businesses. This brief is filed because the issue involved here is of widespread significance and of utmost importance to members of the Chamber of Commerce of the United States.

Statement Under Rule 33.2(b)

Since the proceeding draws into question the constitutionality of the Act of July 28, 1953, 67 Stat. 226, Title 28 U.S.C. Section 171, an Act of Congress affecting the public interest, and neither the United States nor any agency, officer or employee thereof is a party, it is noted that Title 28 U.S.C. Section 2403 may be applicable.

To the best knowledge of the undersigned, no Court of the United States as defined by Title 28 U.S.C. Section 451 has, pursuant to Title 28 U.S.C. Section 2403, certified to the Attorney General the fact that the constitutionality of such Act of the Congress has been drawn in question.

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**BRIEF OF CHAMBER OF COMMERCE OF THE
UNITED STATES AS AMICUS CURIAE**

I. INTRODUCTION

This brief *amicus curiae* is submitted by the Chamber of Commerce of the United States of America as provided in Rule 42(3) of the Rules of the Supreme Court.

**II. INTEREST OF THE CHAMBER OF COMMERCE OF THE
UNITED STATES**

The Chamber of Commerce of the United States is a federation, consisting of membership of more than 3,000 national, state and local chambers of commerce and trade associations, with an underlying membership of approximately 1,700,000 business firms and a

direct membership of more than 21,550 business firms. Many members are engaged in businesses in interstate commerce or in businesses whose activities affect interstate commerce and are, therefore, subject to federal laws that affect the employer-employee relationship in these businesses. This brief is filed because the issue involved here is of widespread significance and of utmost importance to members of the Chamber of Commerce of the United States.

III. ARGUMENT

Amicus curiae is concerned that the central issue before this Court on the petition for writ of certiorari involves the conflict created by the decision of the United States Court for the Second Circuit in Case No. 217,¹ and decisions of the United States Courts of Appeals for the Fifth,² Sixth,³ and Seventh⁴ Circuits. In view of the widespread confusion and general uncertainty created by this conflict, *amicus curiae* respectfully urges this Court to examine this ruling and hand down a clear judgment on the issues involved.

The substantive issues raised in the petition relating to seniority rights arising under collective agreements are of widespread importance because of their impact on labor-management relations and the entire collective bargaining process. Contractual provisions setting

¹ *Glidden v. Zdanok et al.*, 288 F. 2d 99.

² *System Federation No. 59 of Railway Employees v. La. & A. Ry. Co.*, 119 F. 2d 509, 515 (CA 5th Cir. 1941).

³ *Elder v. N. Y. Central R. R. Co.*, 152 F. 2d 361, 364 (CA 6th Cir. 1945).

⁴ *Local Lodge 2040, International Association of Machinists v. Servel*, 268 F. 2d 692, 698 (CA 7th Cir. 1959).

forth employee seniority rights and management obligations vary widely depending on the intent of the parties as specified in the collectively bargained agreement. Some contracts provide for company-wide seniority, others for plant, departmental or job seniority. Combinations and variations of these general classes of seniority rights are numerous, depending on the specific rights bargained for by the employer and the collective bargaining agent of its employees.

In the case before this Court, the collectively bargained agreement was silent on the question of seniority rights arising under an agreement applicable to a specific plant after the plant has been transferred to another location.

Contractual provisions defining seniority rights with language comparable to the contract here in controversy are widely used by management throughout the country. Management's right to manage, which includes certain freedom of action incident to relocation of its plants, is directly affected by the specific terms and conditions agreed to during the collective bargaining process and set forth in the contract.

For the foregoing reasons, amicus curiae submits that the issues raised in the petition for a writ of certiorari are of vital concern to American business, and on behalf of its many members urges this Court to grant the petition.

WILLIAM B. BARTON

GEORGE J. PANTOS

1615 H Street, N. W.

Washington, D. C.

*Attorneys for the Chamber
of Commerce of the
United States of America*

PROOF OF SERVICE

I, William B. Barton, one the attorneys for the movants herein, and a member of the bar of the Supreme Court of the United States, hereby certify that on the 28th day of July, 1961, I served copies of the foregoing BRIEF AMICUS CURIAE on the several parties to the principal case as follows:

1. On the petitioner, The Glidden Company, Durkee Famous Foods Division, by mailing a copy in a duly addressed envelope with first-class postage prepaid to their attorney of record: Chester Bordeau, White and Case, 14 Wall Street, New York 5, New York.
2. On the respondents, Olga Zdanok et al., by mailing a copy in a duly addressed envelope with first-class postage prepaid to their attorney of record: Morris Shapiro, Sahn, Shapiro and Epstein, 350 Fifth Avenue, New York 1, New York.
3. On the Solicitor General by mailing a copy in a duly addressed envelope with first-class postage prepaid to the Office of the Solicitor General: Archibald Cox, Solicitor General, Department of Justice, Washington 25, D. C.

WILLIAM B. BARTON